

STATEMENT OF ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING
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HEARING BEFORE THE SUBCOMMITTEE ON
TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED
AGENCIES

COMMITTEE ON APPROPRIATIONS UNITED STATES HOUSE OF REPRESENTATIVES

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Good afternoon Chairman OLVER, Ranking Member Latham and Members of the Subcommittee. Thank you for inviting me to testify before you on the challenges to development in Indian Country. There are many such challenges, but with the Committee's assistance, we can make progress toward addressing them. With me today is Mr. Rodger J. Boyd, the Deputy Assistant Secretary for HUD's Office of Native American Programs (ONAP).

First, I'd like to provide you with an overview of the Native American programs HUD has available to meet the housing and economic development needs of Indian Country. I'll then discuss the positive impact that the American Recovery and Reinvestment Act (Recovery Act) has had in these areas, provide highlights of the proposed fiscal year (FY) 2011 ONAP budget, describe the process we are embarking on to involve tribal leaders in implementing recent statutory amendments to ONAP programs, and illustrate how the Department is seeking to improve the delivery of housing and housing-related services to our clients.

ONAP Programs

HUD administers six programs that are specifically targeted to American Indian, Alaska Native, or Native Hawaiian individuals and families. In implementing all of these programs, the Department recognizes the right of tribal self-governance and the unique relationship between the federal government and the governments of Indian tribes, established by long-standing treaties, court decisions, statutes, Executive Orders, and the United States Constitution. There are 564 federally recognized tribes in the Nation today, each with its own history, culture, traditions, and goals. The Department strives to balance respect for these individual tribes with regulations and procedures that ensure accountability and consistency nationwide.

Native American (also known as Indian) Housing Block Grant

The Indian Housing Block Grant (IHBG) is ONAP's largest program, both in terms of dollars appropriated and population served. It is authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). NAHASDA uses a housing block grant approach by offering each tribe the flexibility to design, implement, and administer unique, innovative housing programs, based on local need. Some of these local programs would not

have been eligible activities under the United States Housing Act of 1937 (1937 Act), such as down-payment and other mortgage assistance programs, transitional housing, construction of domestic abuse shelters, and the creation of revolving loan funds.

From FY 1998 through FY 2009, the IHBG program received slightly more than \$7.58 billion, or an average of about \$632 million annually. During that time, more than 25,000 affordable housing units have been constructed or acquired, and more than 52,000 housing units have been rehabilitated.

Annual IHBGs are awarded to eligible Indian tribes or their tribally designated housing entities (TDHE) for a range of affordable housing activities that primarily benefit low-income Indian families living on Indian reservations or in other Indian areas. The amount of each grant is based on a formula that considers local needs, and the number of housing units that were developed with 1937 Act funds and are currently under management by the tribe or TDHE.

Title VI – Loan Guarantees

NAHASDA also authorized the Title VI program, which offers IHBG recipients guaranteed loans that encourage long-term development projects and leveraging using a variety of funding sources. Under Title VI, HUD can guarantee 95 percent of a loan for affordable housing activities. Borrowers pledge a portion of their current and future IHBG funds as security. This program has provided an incentive for lenders to get involved in the development of tribal housing.

Since the program began in 2000, ONAP has issued 57 Title VI loan guarantees totaling more than \$136 million. The eligible activities are the same as for the IHBG program: Indian housing assistance, housing development, housing services, housing management services, crime prevention and safety activities, and model activities as approved by HUD. The predominant use of Title VI loans has been the construction of housing units—more than 2,000 since the program began—and housing infrastructure.

Section 184 – Single Family Home Loan Guarantees

The Section 184 program was authorized by the Housing and Community Development Act of 1992, as amended. It is a single-family mortgage loan program that provides a 100 percent guarantee for private mortgage loans issued to eligible borrowers. Eligible borrowers include American Indian and Alaska Native families and individuals, Indian tribes, and TDHEs. There are no income limits. Loans are used to purchase, construct, rehabilitate, refinance, or purchase and rehabilitate a home located on a reservation or within an Indian area. A one-time, 1 percent guarantee fee is charged; it can be financed, or paid in cash at closing. The maximum mortgage term is 30 years.

In FY 2003, 271 Section 184 loans were guaranteed for \$27 million. Six years later, in FY 2009, 2,401 Section 184 loans were guaranteed for \$395 million. Since the program's inception in 1995, through March 18, 2010, 10,197 loans were guaranteed, for more than \$1.5 billion. The foreclosure rate has consistently remained below 1 percent.

Native Hawaiian Housing Block Grant (NHHBG)

The NHHBG program, which is Title VIII of NAHASDA, was authorized by the Hawaiian Home Lands Homeownership Act of 2000. The Department of Hawaiian Home Lands (DHHL) is the sole recipient. The NHHBG is designed to primarily benefit low-income Native Hawaiians who are eligible to reside on the Hawaiian Home Lands. Eligible activities are the same as for the IHBG program. DHHL provides many housing services, including counseling and technical assistance, to prepare families for home purchase and ownership. DHHL is also using NHHBG and other funds to invest in infrastructure for future housing development.

Fiscal year 2002 was the first funding year. Since that time over 300 units have been constructed, acquired or rehabilitated with NHHBG funds. The program has an average annual appropriation of approximately \$9 million. For FY 2009, the appropriation was \$10 million. In FY 2009, 49 affordable homes became available to eligible Native Hawaiian families through construction (34), acquisition (14), and rehabilitation (1).

Section 184A – Native Hawaiian Loan Guarantee Program

Section 184A was established by Section 514 of the American Homeownership and Economic Opportunity Act of 2000, which amended the Housing and Community Development Act of 1992. The program is similar to Section 184, but intended for Native Hawaiians eligible to reside on the Hawaiian Home Lands. Appropriations have ranged from \$956,000 in FY 2002 to \$1 million in FY 2009. As of January 2010, the program had guaranteed 58 loans for almost \$13 million.

Indian Community Development Block Grant Program (ICDBG)

This program is authorized by the Housing and Community Development Act of 1974. ICDBG is a competitive program, open to federally recognized tribes and certain tribal organizations. Each year, approximately 1 percent of the Community Development Block Grant appropriation is set-aside for ICDBG. In FY 2010, the ICDBG set-aside is \$65 million. Funding in recent years has ranged from \$71 million to \$65 million. About \$4 million is set aside each year from the ICDBG fund for imminent threats to health and safety.

Examples of ICDBG projects include construction of health clinics and other public facilities, including gymnasiums and cultural centers; housing rehabilitation; health and education facilities; infrastructure, including roads, power, water, and phone lines; and waste water lagoon systems.

Recovery Act Impact in Indian Country

On February 17, 2009, President Obama signed the Recovery Act into law. I would like to thank the Subcommittee, and in particular the Chairman, for its role in providing funds to tribal areas as part of that law. As a result, HUD has invested \$510 million in American Indian, Alaska Native, and Native Hawaiian communities across the country. Of that amount:

- \$255 million was distributed to eligible IHBG recipients using the IHBG formula. There were 362 primary recipients, representing 542 tribes. By March 19, 2009, only 30 days after the Recovery Act became law, ONAP notified tribes of their Recovery Act formula allocations and the funds were legally obligated. As early as April 2009, some tribes had approval to expend funds. By August 2009, 98 percent of recipients had access to their Recovery Act formula funds. As of March 14, 2010, formula grantees had expended more than \$103 million, or about 41 percent of all funds received.
- \$242,250,000 was awarded to 102 IHBG recipients that applied through a Notice of Funding Availability (NOFA) posted on the HUD website on May 27, 2009. Applications were due no later than July 13, 2009, and were reviewed and funded as they were received. Awards were made as early as June 16, 2009, and all awards were completed by August 11, 2009. ONAP received 327 applications, far more than it could fund. As of March 14, 2010, these competitive grantees had expended more than \$54 million, or about 22 percent of all funds received.
- \$10.2 million was awarded to the Department of Hawaiian Home Lands in May 2009, to be distributed through the NHHBG program. As of March 14, 2010, 25 percent of these funds had been expended.
- An additional \$10 million was provided for the ICDBG program through the Community Development Fund. The entire amount was awarded to 19 grantees in August 2009, in response to a NOFA that was posted on HUD's website on May 27, 2009. As of March 14, 2010, 16 percent of these funds had been expended.

The expenditure rate in the Recovery Act IHBG program exceeds that of the annual IHBG formula program. This is due in part to the requirement that tribes give priority to projects that could begin in 180 days. Several tribes have already completed and closed out their Recovery Act funds. However, HUD has noted some delays in project implementation, due to the following challenges:

- Administrative Workload – Tribes were notified of the Recovery Act formula allocation in March 2009. Just a few months before that announcement, they were finalizing their grant agreements for the FY 2008 IHBG program, and had started implementing their FY 2008 grants. In addition, tribes had just been provided with the FY 2009 final formula allocation, and Indian Housing Plans for FY 2009 were due no later than July 1, 2009. Following right behind the first Recovery Act announcement, the NOFAs for the competitive IHBG and ICDBG funds were announced. Because the applications were reviewed and funded as they were received, tribes needed to direct their immediate attention to these applications. Finally, the FY 2009 regular ICDBG NOFA was also published, with applications due in August. All of these funds are desperately needed in Indian Country, and tribes concentrated on securing Recovery Act formula or competitive funding during the months of March through July.
- Environmental Reviews – The environmental review process must be completed before funds are obligated. This process can be lengthy. Some grantees may have been able to

select projects for which the environmental review process was either already underway or had been completed, but many grantees were not in that position and had to start the process from the beginning.

- Procurement – Many projects required hiring of technical experts (for example, architects or consultants for projects that were not shovel-ready) to begin the development of a project. If the grantee hires a contractor to perform some or all of the work, the procurement and Indian preference requirements can take some time to complete, depending on the type of procurement. A procurement that does not fall within the definition of a small purchase (\$100,000 or less) can take months to complete.

The Recovery Act has made an observable difference in Indian Country. Recipients of Recovery Act funds report to the Office of Management and Budget (OMB) online, through fedreporting.gov. Those reports indicate that more than 800 jobs have been created with Recovery Act funds.

HUD requires Recovery Act recipients to report in HUD's Recovery Act Management and Performance System (RAMPS). This data is self-reported by the grantee. Based on FY 2010 second quarter reporting, RAMPS shows the following activities planned, underway or completed:

ONAP Recovery Act Activity: Formula and Competitive Grants		
Units: Development	Planned	1,759
	Started	664
	Completed	181
Units: Rehab	Planned	6,484
	Started	4,161
	Completed	2,303
Infrastructure Projects	Planned	765
	Started	288
	Completed	213

Here are a few examples of projects in Indian Country assisted with Recovery Act funds.

The Lummi Housing Authority in the state of Washington received a \$4 million formula Recovery Act grant for the 72-unit Kwina Village Apartments project, which is now well underway, with completion scheduled for later this year. The first phase of the housing project began in July and was completed in December 2009. The building phase of the project began recently with construction of foundations, about a quarter of which are already complete.

Lummi Tribe's Kwina Apartments are centrally located to Lummi Nation's health clinic, court, administration building, library, police department, housing authority, and the Northwest Indian College. They will feature 12 separate 2-story buildings arranged in groupings around

common open spaces, with each building containing 6 relatively small, one and two-bedroom flats. This development will consist of 48 one-bedroom and 24 two-bedroom low-rent units. Lummi Housing Authority designed this development for young families and students. They incorporated supportive housing services for their future residents to help ensure all residents succeed in their individual goals of homeownership and graduation from college.

The apartments will take about 1 year to complete and will employ an average of 22 persons per month during that period. The housing authority is using its own force account crew to construct the buildings to maximize the number of construction jobs going to tribal members. In addition, the project is an opportunity to provide on-the-job training in the construction trades for targeted tribal youth through a recently awarded Department of Labor YouthBuild Recovery Act grant. Given the depressed state of the local construction industry, it represents one of the most significant projects in Whatcom County, creating economic benefits far beyond the boundaries of the reservation.

The Moapa Indian Housing Authority is the TDHE for the Moapa Band of Paiutes in the state of Nevada. They received \$151,706 in Recovery Act funds to rehabilitate 39 rental units. Due to arid desert conditions in summer and freezing winter cold, the paint on the units had chipped, and the wooden panels split. This allowed small desert creatures to enter the homes. The Moapa Band exercised its right to enforce the Tribal Employment Rights Ordinance and three Native Americans worked on the painting project. There were three full-time positions created in FY 2009, and in FY 2010 there is one full-time position for a Native American. In addition, a minority-owned business was employed as painting contractor, which created eight more full-time positions.

Other tribes have used Recovery Act IHBG funds to construct decent, safe, and sanitary single or multi-family homes where there were none, rehabilitate and weatherize unsafe and inefficient homes, upgrade water systems where water supply or treatment was lacking, replace old appliances with energy efficient ones, and develop or repair infrastructure in support of new or existing homes.

FY 2011 Budget

For FY 2011, the President's budget request is \$580 million for the IHBG program, with \$2 million set aside for Title VI activities; \$10 million for the NHHBG program; \$9 million for the Section 184 loan guarantee program, which will leverage over \$994 million in loan guarantees; and \$65 million for the ICDBG program.

We understand that there is a perception that tribes have not spent the funds that Congress has appropriated in years past. This perception is partially due to the timing of the grant funds. Tribes do not receive funding until relatively late in that fiscal year. In fact, most recipients that have received IHBG funds by formula have swiftly put those funds to good use. Since the inception of the program in FY 1998, through the end of FY 2009, IHBG grantees have drawn down 88 percent of their available funding.

The budget process, from the time that funds are appropriated by Congress and the bill is signed by the President to the time ONAP receives the funds for disbursement, can take several months. Appropriated funds must be apportioned by OMB, processed through HUD's Chief Financial Officer to the Public and Indian Housing Budget Office, and then allocated to the ONAP Area Offices before funds can be reserved for the tribe.

According to program regulations, a tribe or TDHE has until July 1st of a given fiscal year to submit its Indian Housing Plan (IHP), the document required to receive an annual grant. If a tribe submits its IHP prior to, or shortly after, the annual Appropriations Act is signed into law, funds can be made available to that tribe in approximately 4 months. If the IHP is not submitted until July 1st (the regulatory deadline), this process can take over 10 months from the time the Appropriations bill is signed.

We are working to streamline this process by shifting from an annual IHP deadline to a quarterly submission based on each tribe's fiscal year end. ONAP has consulted with tribes on how to accomplish this, and it is a subject for discussion at the negotiated rulemaking sessions currently being conducted. I will discuss this further below.

Housing Need

There are approximately 5 million American Indian and Alaska Native people living in the United States, slightly less than half of whom live on Indian lands. According to the Millennial Housing Commission's 2002 report, welfare reform has driven many Native Americans back to their reservations, creating even more of a demand for housing and other basic services.

Within the last decade, numerous studies have attested to the critical housing and economic development needs on tribal lands. HUD's Office of Policy Development and Research, using 2000 Census data, determined that, nationwide, almost 543,000 American Indian and Alaska Native households have "severe housing needs," which are defined as living in conditions that are overcrowded, substandard, or cost-burdensome. According to a Harvard University study in 2002, approximately 40 percent of on-reservation housing is inadequate, as compared with roughly 6 percent nationwide. The CDFI Fund, in its Native American Lending Study published in 2001, identified 17 major barriers to capital access, relating to legal infrastructure; government operations; economic, financial, and physical infrastructure; and education and cultural issues. A decade later, many of these barriers remain. It is generally accepted that at least 90,000 Indian families live in either overcrowded or substandard conditions, and there is a need for over 200,000 new housing units.

Improving Delivery of HUD's Native American Programs

I understand that the Subcommittee is interested in hearing what steps the Department is taking to transform and/or improve its programs for Native Americans. At the outset, it is important to acknowledge the reality of the fundamental challenges to housing development that tribes perennially face: the remote, rural location of many tribes; the extreme weather conditions in both northern and southern climates that limit the building season to only a few months; the

high costs associated with obtaining and shipping construction materials to remote areas; the dearth of qualified construction companies and skilled labor; the inordinately high cost of infrastructure in tribal areas; the need to coordinate among several federal agencies to complete a housing project; and the lack of experienced housing staff on some reservations.

But there are opportunities to mitigate these and other challenges, and my office is working with tribes toward that end.

The Department consults with tribal program grantees and participants on every major programmatic change to ensure that our programs are working as Congress intended. For example, last December, HUD officials participated in a listening session at the National American Indian Housing Council's legal symposium to discuss early innovations and challenges associated with implementation of the Recovery Act.

HUD is about to conduct a comprehensive housing needs study to help inform future budget requests and improve program implementation. The Department's Office of Policy Development and Research will manage the study with input from tribal communities nationwide. To prepare for this, ONAP will hold outreach meetings in each of its six regions and in Hawaii, to ensure that the views of stakeholders and their partners are considered. Our objective is to ensure that the study reflects current conditions and needs within Indian Country.

The Department is also preparing to issue a new Indian Housing Plan (IHP)/Annual Performance Report (APR) form. The previous forms were cumbersome and repetitive. The new form will be automated for importing data and conducting basic calculations. The revised form will be easier to complete and less burdensome.

This month, HUD began a negotiated rulemaking process with tribal representatives to implement amendments to NAHASDA enacted in 2008 and earlier. This marks the third time HUD has participated in negotiated rulemaking with tribal representatives to develop program regulations. This process has helped make the programs more user-friendly and appropriate for Indian Country.

HUD is also increasing collaboration, both internally and externally, to improve program delivery to tribal communities. There are many federal programs that support housing, health, social and economic development for Native people. Although short and long-term cost savings are impossible to project at this time, economies of scale should result from enhanced coordination and collaboration. Increasing the dialogue between and within agencies will help ensure that Native Americans are truly receiving the support they need from these programs.

In the last 12 months, Secretary Donovan has partnered with heads of other federal agencies to visit tribal communities in Montana and Alaska. They have met with community leaders to look at issues related to housing, education, transportation, energy, communication infrastructure, and agriculture. The ultimate objective is to foster a holistic approach to community and economic development.

ONAP continues to collaborate with the Bureau of Indian Affairs (BIA) to streamline its Title Status Report (TSR) process. Lengthy delays in obtaining a TSR from BIA have hampered

the Section 184 Loan Guarantee program. A new, more efficient TSR system would dramatically increase Section 184 activity on trust lands.

Thank you, Mr. Chairman, for the opportunity to appear before you today to discuss the unique challenges to development in Indian Country. I look forward to working with the Subcommittee on these issues now and in the future. I would be happy to answer any questions you may have.